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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2010-382**

13 **TINA LINKEMYER-WATKINS**
1325 River Street
Santa Cruz, CA 95060-1714
14 Registered Nurse License No. RN 571061

A C C U S A T I O N

15 Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
21 of Consumer Affairs.

22 2. On or about August 28, 2000, the Board of Registered Nursing issued Registered
23 Nurse License Number RN 571061 to Tina Linkemyer-Watkins (Respondent). The Registered
24 Nurse License was in full force and effect at all times relevant to the charges brought herein and
25 will expire on August 31, 2010, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Section 2811 of the Code provides, in pertinent part, that an expired license may be renewed or reinstated within eight years.

6. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

"(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

...."

7. California Code of Regulations, title 16, section 1442, states:

"As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life."

8. California Code of Regulations, title 16, section 1443, states:

"As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse as described in Section 1443.5."

9. California Code of Regulations, title 16, section 1443.5 states:

"A registered nurse shall be considered to be competent when he/she consistently demonstrates the ability to transfer scientific knowledge from social, biological and physical sciences in applying the nursing process, as follows:

"(1) Formulates a nursing diagnosis through observation of the client's physical condition and behavior, and through interpretation of information obtained from the client and others, including the health team.

"(2) Formulates a care plan, in collaboration with the client, which ensures that direct and indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and for disease prevention and restorative measures.

"(3) Performs skills essential to the kind of nursing action to be taken, explains the health treatment to the client and family and teaches the client and family how to care for the client's health needs.

"(4) Delegates tasks to subordinates based on the legal scopes of practice of the subordinates and on the preparation and capability needed in the tasks to be delegated, and effectively supervises nursing care being given by subordinates.

"(5) Evaluates the effectiveness of the care plan through observation of the client's physical condition and behavior, signs and symptoms of illness, and reactions to treatment and through communication with the client and health team members, and modifies the plan as needed.

"(6) Acts as the client's advocate, as circumstances require, by initiating action to improve health care or to change decisions or activities which are against the interests or wishes of the client, and by giving the client the opportunity to make informed decisions about health care before it is provided."

10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FACTUAL BACKGROUND

11. On or about December 21, 2004, while Respondent was employed as a labor and delivery nurse at Catholic Healthcare West – Dominican Hospital, in Santa Cruz, California, she undertook to care for Patient A, who was in post term labor at the hospital and under her care from 1900 hours until the patient had an emergency cesarean section at 0540 hours on December 22, 2004.

In caring for said patient, Respondent did not gain intravenous access early in the care of said laboring patient, contrary to the standard of care for a registered nurse caring for a post term laboring patient and contrary to the standard admission orders for this patient signed on December 21, 2004. Lack of intravenous access had the potential to harm the patient and the fetus and it became a crucial point once the fetus had prolonged deceleration and resultant bradycardia and staff was unable to obtain IV access for the needed emergency cesarean section.

During the course of her care of Patient A, Respondent charted in her nursing notes both the presence of decelerations noted on the fetal heart monitor and the lack of progress in the dilation of the patient's cervix. She did notify the physician of this when noted at 2200 hours on December 21, 2004. The patient's monitoring data reflected the presence of increasingly significant fetal heart rate decelerations and change in baseline at 0040 hours on December 22, 2004. Respondent did not again notify the physician until 0455 hours on December 22, 2004, when the fetal distress had become an emergency situation.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct, Gross Negligence and/or Incompetence)

12. Respondent is subject to disciplinary action under section 2761(a)(1) in that she was grossly negligent and/or incompetent within the meaning of California Code of Regulations, title

16, sections 1442 and 1443, in the care and treatment of Patient A when she did not establish intravenous access for the patient early in her care, as described above in paragraph 11.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct, Gross Negligence and/or Incompetence)


13. Respondent is subject to disciplinary action under section 2761(a)(1) in that she was grossly negligent and/or incompetent within the meaning of California Code of Regulations, title 16, sections 1442 and 1443, in the care and treatment of Patient A when she did not notify the physician in a timely manner concerning the lack of cervical dilation progress in the presence of increasingly significant fetal heart rate decelerations and change in baseline as described above in paragraph 11.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number RN 571061, issued to Tina Linkemyer-Watkins.
2. Ordering Tina Linkemyer-Watkins to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: 2/16/10


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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